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Hearing on Tribal Transportation: Paving the Way for Jobs, Infrastructure and Safety in
Native Communities
Before the
Committee on Indian Affairs
United States Senate

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Chairman Akaka, Vice Chairman Barrasso, and Members of the Committee, thank you for the opportunity to testify today regarding transportation issues facing Native American communities and the programs administered by the Federal Highway Administration (FHWA) that provide support to Tribes for addressing these issues.

The Department of Transportation (DOT) recognizes that transportation needs for Tribes are often different than what we see needed elsewhere in the U.S. transportation network. In much of this country, we take for granted that roads and highways will be there for children to reach their schools, for emergency vehicles to reach those in need of medical care, and for members of the community to get to work. But, in Indian Country, we cannot always make that assumption. Moreover, tribal communities need good roads to support economic development.

Secretary LaHood shares President Obama's commitment to addressing tribal issues and concerns. Last year, meeting with the National Congress of American Indians, the Secretary emphasized the DOT's commitment to improving existing tribal transportation programs by seeking tribal input on important regulations, providing timely technical assistance, and ensuring that Tribes are given ample opportunities to compete for grants. The Department also has implemented its Tribal Consultation Plan, a detailed plan of action the agency will take when developing, changing, or implementing policies, programs, or services with tribal implications.

FHWA has a long history of supporting tribal governments' rights to self-determination and working directly with Tribes in a government-to-government relationship. FHWA's top leadership continues to meet directly with tribal government elected officials and transportation staff, and is committed to delivering a transportation program that works for all Tribes whether the Tribe has a large or small population.

FHWA has sought to improve tribal transportation by working directly with tribal governments to improve Tribes' technical capacity, to improve safety on reservations and native communities, and to foster partnerships between tribal governments, local governments, Federal agencies, and State DOTs.

The Indian Reservation Roads (IRR) program, administered by FHWA in partnership with the Bureau of Indian Affairs (BIA), is critical to supporting tribal transportation needs. In many

cases, it is the only source of revenue for transportation improvements. In working through FHWA's partnership with the Tribes and the BIA, the IRR program seeks to balance transportation mobility and safety goals with the environmental and cultural values of tribal lands. FHWA also works with the Federal Transit Administration and the National Highway Traffic Safety Administration (NHTSA) in coordinating transportation programs that focus on planning, safety, and construction of roads and transit services within Indian country.

OVERVIEW

The IRR system of roads provides access to and within Indian reservations, Indian trust land, restricted Indian land, eligible Indian communities, and Alaska Native villages. The IRR system consists of more than 140,000 miles of roads that link housing, schools, emergency services, and places of employment, and facilitate tourism and resource use. Almost 11 billion vehicle miles are traveled annually on the IRR system, even though it is among the most rudimentary of any transportation network in the United States. Just over 60 percent of the system is unpaved. If only BIA and tribal roads of the IRR system are considered, this number increases to approximately 80 percent. Within the system, there are more than 8,000 bridges and approximately 27 percent of these bridges are classified as deficient. These conditions make it very difficult for residents of tribal communities to travel to employment centers, hospitals, schools, and stores—the most basic needs for a livable community.

The poor road quality on tribal lands also affects safety. For the past two years, traffic deaths on U.S. roads have reached record lows. However, despite the gains we have made on other systems, the annual fatality rate on Indian reservation roads continues to be more than twice the national average. Safety continues to be the Department's top priority, and FHWA is working closely with Tribes, the BIA, NHTSA, and others to address this disproportionate level of fatalities on tribal roads.

The IRR program is the largest Federal Lands Highway (FLH) program and is unique due to the relationship with Federally-recognized Indian Tribal Governments under the program. The IRR program serves 565 Federally-recognized Indian Tribes and Alaska Native villages in 32 States. FHWA co-administers the IRR program with the BIA under an agreement originating in 1948 and a Stewardship Plan from July 1996.

IRR program funding has grown significantly under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), from a program size of \$275 million annually under the Transportation Equity Act for the 21st Century (TEA-21) to \$450 million annually today. This equates to a total of \$2.76 billion over the life of SAFETEA-LU, including the extensions through the end of this fiscal year. These funds have been distributed according to a tribal shares formula, which was developed through a negotiated rulemaking with tribal governments. SAFETEA-LU also increased the eligible uses of IRR program funds by allowing a Tribe to use up to 25 percent of its share of funds for road and bridge maintenance activities. This change allowed Tribes to supplement the funding they receive annually from the Department of the Interior (DOI) for maintenance activities. It also allowed the Tribes to address critical safety, snow removal, and pavement preservation issues. The increased funding and programmatic changes provided in SAFETEA-LU for the IRR program, along with an additional

\$310 million provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act), discussed below, have provided tools and resources to substantially improve tribal transportation.

SAFETY PROGRAMS

Safety remains a significant transportation issue in Indian Country. Native Americans are overrepresented in several traffic fatality categories—including individuals under the age of 35, unbelted drivers, and individuals driving under the influence of alcohol. Eleven safety summits, including ten State-based and one national summit held in the past two years have focused on the subject, bringing the many safety partners together to discuss the safety issues affecting them. Two additional State-based summits, as well as an updated national tribal safety summit are planned for the near future. FHWA and NHTSA will continue these summits to promote safety strategies across the four E's of safety—engineering, enforcement, education, and emergency medical services.

Highway Safety Improvement Program

SAFETEA-LU established the Highway Safety Improvement Program (HSIP) with the purpose of achieving a significant reduction in traffic fatalities and serious injuries on all public roads through the implementation of infrastructure-related highway safety improvements. HSIP funding has been utilized for tribal lands projects across the country.

In Montana, for example, two HSIP construction projects totaling \$1.88 million provided improvements such as the installation of Variable Message Signs on US 2 on the Blackfeet Reservation and the addition of a left-turn bay on US 93 on the Flathead Reservation.

A \$107,650 HSIP project in North Carolina along US 74 from the Haywood County line to NC 28 (North), in Eastern Band of Cherokee Nation, funded the installation of milled rumble strips on the median and outside shoulders.

In North Dakota, two HSIP projects totaling \$300,000 provided improvements along State highways within reservation boundaries of Standing Rock Reservation and Fort Berthold Reservation. Such improvements included the installation of shoulder and centerline rumble strips along State Highways 23 and 24.

In Wisconsin, a \$316,000 HSIP project was undertaken by the Wisconsin DOT along with the Forest County Potawatomi Tribe to improve a tribal owned intersection at Everybody's Road and USH 8 in Forest County. The intersection project was combined with \$900,000 BIA funds and \$74,000 tribal funds to construct a newly relocated intersection and frontage road (Everybody's Road) that leads to the tribal headquarters offices and Tribal Community Center.

Safe Routes to School

The Safe Routes to School (SRTS) program is a Federally-funded but State-managed and administered grant program established by section 1404 of SAFETEA-LU. Under this program,

each State has received at least \$1 million each fiscal year to fund planning, design, and construction of infrastructure-related projects to improve the ability of students to walk and bicycle to school. A portion of each State's SRTS funding must also be used for non-infrastructure-related activities to encourage walking and bicycling to school. Federally-recognized Tribes are eligible sub-recipients of this State-administered program.

Several States are working closely with Tribes to promote the SRTS program. For example, in Washington State, DOT provided SRTS funds to the Suquamish Tribe to install sidewalks, bike lanes and signs and to conduct education and enforcement activities to teach children pedestrian safety skills. Similarly, in Arizona, the Yavapai-Apache Nation utilized SRTS funds to add signs and roadway striping throughout the community surrounding a Montessori Children's House school. In Montana, SRTS funds were utilized in the City of Arlee for an elementary school traffic education program and construction of a pathway. The Santee Sioux Nation Indian Reservation used SRTS funds in Nebraska to build a path for children that connected a local school with a residential community and increased pedestrian visibility. In Oregon, Warm Springs Elementary School on the Warm Springs Reservation, received a \$1000 mini-grant in Safe Routes to School Clearinghouse Funds to reduce speeding and improve yielding to pedestrians in crosswalks. These funds will be used for a media campaign and to hire a crossing guard trainer for crossing guard volunteers.

Section 402 State and Community Highway Safety Grant Funds

NHTSA provides safety grant funds to the Secretary of the Interior to save lives, prevent injuries, and reduce economic loss due to motor vehicle related crashes on tribal land. The BIA administers the funds, known as the Section 402 State and Community Highway Safety Grant Funds. NHTSA provides technical assistance to Tribes through partnership with the BIA.

SAFETEA-LU FUNDING FOR TRIBAL TRANSPORTATION

Although the IRR program is the principal funding source for tribal roads, these roads are eligible to receive funding under other SAFETEA-LU programs as well.

Indian Reservation Roads Bridge Program (IRRBP)

The Indian Reservation Roads Bridge Program (IRRBP) was established under TEA-21 and funded using \$13 million of the primary IRR Program. The program's purpose was to provide funding for reconstruction or rehabilitation of structurally deficient or functionally obsolete IRR bridges. SAFETEA-LU amended the IRRBP by establishing it as an independently funded program, authorized at \$14 million per year, and allowing design activities to be funded. FHWA worked with the Indian Reservation Roads Program Coordinating Committee to implement these legislative changes. Since its inception in TEA-21, the IRRBP has provided more than \$175 million in funding to over 300 bridge projects in Indian Country.

National Scenic Byways Program

Indian Tribes have participated in the National Scenic Byways Program since its inception under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). SAFETEA-LU authorized the Secretary of Transportation to make grants from this program directly to Indian Tribes and to allow Tribes to nominate Indian roads directly to FHWA (without going through a State department of transportation) for possible designation as a National Scenic Byway or an All-American Road.

FHWA has participated in tribal transportation conferences to inform Tribes of these changes to the National Scenic Byways Program. FHWA also worked with the America's Byways Resource Center in Duluth, Minnesota to establish a tribal liaison position within the Resource Center to provide technical assistance to Indian Tribes for establishing tribal scenic byways programs and designating roads as Indian Tribe scenic byways.

In addition, FHWA has modified its grant application procedures so that Indian Tribes may submit grant applications directly to FHWA. In fiscal year 2011, Tribes submitted nine applications directly to FHWA and two applications through the State departments of transportation, requesting a total of \$3.13 million. FHWA selected five of the projects, providing a total of \$2,104,796 in funding.

Public Lands Discretionary Program

The Public Lands Highway Discretionary program is another source of funding available to Tribes for transportation needs. The program provides funding to any project eligible under title 23, United States Code, that is within, adjacent to, or provides access to tribal or Federal public lands. Over the life of SAFETEA-LU, including the extensions through the end of this fiscal year, nearly \$570 million was made available through this program. Of the \$570 million, \$72 million was provided for 78 tribal related transportation projects. This year alone, 16 tribal projects totaling more than \$20 million will receive funding through this program.

FHWA IMPLEMENTATION OF SAFETEA-LU REQUIREMENTS FOR TRIBAL TRANSPORTATION

In addition to increased funding, SAFETEA-LU brought about many changes in how the IRR program is administered and to the roles and responsibilities of all parties involved in transportation delivery to tribal communities. Prior to SAFETEA-LU, FHWA provided stewardship and oversight to the IRR program from a national perspective, and the BIA worked with the Tribes by delivering the funds and providing technical assistance. With the passage of SAFETEA-LU, Tribes now have the option to enter into IRR Program Funding Agreements and work directly with FHWA for their IRR Program share as long as the Tribes meet financial audit and management capacity requirements. The number of Tribes electing this option has grown from three the first year to more than 92 Tribes today.

In response to this increase in the number of Tribes, and increased stewardship and oversight responsibilities, FHWA's FLH Office, which has direct responsibility for administering the IRR

program, has increased staffing and worked closely with the Tribes and the BIA to develop uniform program guidance. In addition to carrying out numerous face-to-face meetings with each Tribe and conducting outreach and training through webinars, regional conferences, and organized classes, FLH developed a new program manual for all Tribes, States, counties, and Federal agencies that communicates program expectations, roles and responsibilities, and best practices.

National Indian Reservation Road Inventory

SAFETEA-LU directed FHWA to complete a comprehensive national inventory of IRR eligible transportation facilities and submit a Report to Congress. The purpose of the inventory study was to ensure that the data in the existing inventory is accurate, and to help streamline the procedures that Tribes utilize for updating their inventory. The inventory is the most significant factor used to calculate the tribal shares of IRR program funding; thus, it is critical that data in the inventory be accurate.

FHWA completed and delivered the required Report to Congress in 2008. The Report outlined the Agency's assessment of the inventory process, including its accuracy and consistency of application. The Report included the identification of more than 100,000 miles of road as well as recommendations for improvement and additional study areas. Since issuance of the Report, the inventory has grown to more than 140,000 miles of road. As a result of the Report and issues that have arisen from the Question 10 series of consultations, FHWA plans to work with a consultant to review more than 75 percent of the inventory data. This work will clarify programmatic definitions of the inventory entries and correct critical data errors and omissions that exist within the current inventory in order to ensure an accurate data system. Ultimately, the inventory will reflect the needs of tribal road transportation and serve as an important tool to help make the program fair and equitable for all Tribes.

OUTREACH AND CAPACITY BUILDING

Road Safety Audits and Safety Trainings

Strategies such as Road Safety Audits (RSAs) and community-based enforcement are proving to be effective tools for reducing fatalities on tribal lands. The FHWA Office of Safety sponsors training on Road Safety Fundamentals and RSAs, and works with State and local jurisdictions and tribal governments to integrate RSAs into the project development process for new and existing roads and intersections.

RSAs examine the safety performance of an existing or future road or intersection by an independent, multidisciplinary team. They estimate and report on potential road safety issues and identify opportunities for improvements in safety for all road users. RSAs enable localities and Indian Tribes with little or no safety data to get an expert assessment on how to improve the safety of their roads.

RSAs were conducted for the following tribal entities—Santa Clara Pueblo and Jemez Springs Pueblo, New Mexico; Standing Rock Sioux, North Dakota; the Eastern Band of Cherokee

Indians, North Carolina; the Navajo Nation, Utah; Red Cliff Band of Lake Superior Wisconsin; Smith River Rancheria, California; Native Villages of Minto and Manley Hot Springs Village, and on Prince of Wales Island in Alaska; and six additional Tribes in Arizona. These RSAs were carried out in cooperation with State DOTs.

Tribal Technical Assistance Program

Tribes report that education and training remain significant challenges. Many Tribes do not have a sustainable level of transportation expertise, given their size and resources. The FHWA supports a tribal transportation assistance program with seven centers serving Indian Country. These Tribal Technical Assistance Program (TTAP) centers provide a variety of training and professional development programs as well as technical publications and training materials related to transportation planning, safety, the environment, infrastructure design, construction and management, and other issues. The centers are a key resource for basic services and to help many Tribes become self-sufficient as sovereign nations in transportation delivery. The purpose of our seven TTAP centers is to foster a safe, efficient, and environmentally sound surface transportation system by improving the skills and increasing the knowledge of local transportation professionals.

The TTAP centers provide access to information, training, and program management enhancements that may not have otherwise been accessible to Tribes. In 2010, the TTAP Centers provided 299 training courses to over 7000 participants.

Through the TTAPs, FHWA also continues to provide technical assistance and training to Tribes on conducting their own RSAs. For example, FHWA has provided funding and support to the Northern Plains TTAP to sponsor a Road Safety Audit Outreach Coordinator, who has provided training and RSAs for the Spirit Lake Nation, the Winnebago Tribe of Nebraska, and others.

While FHWA has remained focused on implementing SAFETEA-LU programs, the Agency has also been recently hard at work ensuring that Tribes use the much needed supplemental resources provided by the Recovery Act.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

In addition to SAFETEA-LU funding, the Recovery Act has supplemented funding for tribal communities by providing an additional \$310 million for the IRR program. Since the Recovery Act was signed into law, FHWA and BIA have worked diligently to ensure that the funds for these projects are distributed quickly, wisely, and with unprecedented transparency and accountability. The Federally-recognized Tribes were eligible to receive Recovery Act funding based on the IRR formula, which takes into account the highway projects' estimated construction cost, volume of traffic along the route, and the Tribe's current population. Much of the IRR portion of the Recovery Act has been dedicated to improving roads that provide critical links between tribal residences and vital community services such as schools and health care facilities.

FHWA, along with BIA and with input from Tribes, developed a process that described the requirements for Tribes to receive and obligate their share of Recovery Act funding by focusing

on obligating the majority of the \$310 million before the end of fiscal year 2010. FHWA and BIA also developed guidance to ensure a fair and transparent process to redistribute funds in cases where funds would not otherwise be obligated. The redistribution of more than \$22.5 million to approximately 25 Tribes nationwide helped ensure the efficient and effective use of Recovery Act funds. To date, the more than 518 ARRA funded projects are on average 80 percent complete, and according to documentation provided by the Tribes, these projects have generated more than 8500 jobs.

An example includes the Blackfeet Indian Tribe in Montana that awarded a project for \$916,068 to improve a 14-mile segment of road known as the Starr School Road. This completed project is now providing a safer facility for school buses and other school traffic through sign replacement, new right of way fences, and new roadway striping. The drainage and pavement improvements made will extend the life of the facility.

Another example is the Ramah Navajo Chapter in New Mexico that used its Recovery Act funding along with its allocated IRR funding to construct a \$2.2 million project to provide an all weather surfaced road to a new housing development. These residents had previously been required to access their homes via a two-track mud road which became impassible in inclement weather.

In the Native Village of Tuntutuliak in Alaska, the Tribe combined Recovery Act funding with IRR Program funds and funding from the Denali Commission to reconstruct a 30-year-old board road. This \$846,000 project now allows villagers to move within the village without having to trudge through the tundra. The BIA reports that this project was completed using all tribal employment.

For the Transportation Investment Generating Economic Recovery (TIGER) grant award program, Congress dedicated \$1.5 billion under TIGER I and \$600 million under TIGER II for DOT to provide direct grants to State, local, and tribal governments, to fund surface transportation projects that have a significant impact on the Nation, a region or a metropolitan area. DOT was able to fund 51 innovative capital projects under TIGER I, and an additional 42 capital projects under TIGER II. TIGER II also featured a planning grant category, and DOT was able to fund 33 planning grant projects. Both TIGER programs involved a highly competitive process and received tremendous applicant interest. Tribal projects were selected under both TIGER I and TIGER II.

The Navajo Nation received a \$31 million TIGER I grant to improve US 491, the primary north-south highway that connects the Tribe to other parts of New Mexico, Colorado, and the Four Corners area, by constructing two new lanes and making safety improvements. The project is being administered by the New Mexico DOT and will improve safety and transportation efficiency. It will also create potential economic development opportunities for the Navajo Nation.

TIGER I funds were also used to reconstruct a portion of US 18 between Oglala and Pine Ridge on the Pine Ridge Reservation in South Dakota. This \$10 million project upgraded 15.6 miles of a two lane highway that had no shoulders and deteriorating pavement. These improvements will

significantly improve the overall safety of this section of road which has experienced an accident rate more than 2.5 times the South Dakota average.

The Pueblo of Laguna received a \$1,470,000 TIGER II planning grant to plan and design approximately 40 miles of trails on the reservation to connect six distinct communities with a focus on their traditional village cores. Creating links between five villages supports the collaborative efforts of the communities on the reservation and provides inexpensive transportation choices in this rural region of need.

On July 6, 2011, Secretary LaHood announced the availability of \$527 million in funding for a third round of the TIGER grant program. This discretionary funding will provide an additional opportunity for Tribes to compete for capital improvement funds as direct recipients. In recognition of the importance of this program to the Tribes, DOT will hold a webinar tomorrow to provide outreach and education to the Tribes on the application process. Such outreach will continue through the application process in order to ensure quality applications are received for consideration.

CONCLUSION

Transportation infrastructure is a critical tool for Tribes to improve the quality of life in their communities by providing safe access to jobs, hospitals, and schools. The challenges are to maintain and improve transportation systems serving Indian lands and Alaska Native villages in order to provide safe and efficient transportation, while at the same time protecting environmentally sensitive lands and cultural resources. The Department is committed to improving transportation access to and through tribal lands through stewardship of the Federal Lands and Federal-aid programs. Thank you again for this opportunity to testify. I will be pleased to answer any questions you may have.